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the second side of the first portion has a surface adapted to accept printing relating to food safety labeling systems; and
wherein, the label is adapted to be removed from a substrate by pulling the nonadhesive second portion away from the substrate, whereby the entire label is easily lifted from the substrate.

REMARKS

The following issues are outstanding in the present application:

- The drawings are objected to under 37 C.F.R. § 1.83(a);
- Claims 1-13 are rejected under 35 U.S.C. § 1.12, second paragraph;
- Claims 1, 6 and 14 are rejected under 35 U.S.C. § 102(b);
- Claims 2, 4, 5, 7-13 and 15 are rejected under 35 U.S.C. § 103(a);
- Claims 3, 16-21 and 23-33 are rejected under 35 U.S.C. § 103(a); and
- Claim 22 is rejected under 35 U.S.C. § 103(a).

Applicant respectfully requests entry of the foregoing amendments and reconsideration and withdrawal of the of all outstanding rejections in view thereof in the remarks that follow.

Specification and Claim Amendments

The specification has been amended in order to correct several typographical errors in paragraphs 21 and 22. Claims 1, 14, 17 and 29 have been amended to more particularly point out and distinctly claim what Applicant regards as the invention. Support for the amendments is present in the application as filed. No new matter has been added by any of the foregoing amendments to the claims. Claim 22 has been canceled.

The amended independent claims recite an adhesive label having a first and second section in which each section has first and second opposite sides. The first side of the first section is contiguous with the first side of the second section. An adhesive layer covers at least a portion of the first side of the first section and is adapted to releasably adhere the label to a substrate surface. The second section forms a tab portion extending from an edge of the first section and the first side of the second section does not include an adhesive layer. The

entire label is adapted to be easily removed from a substrate surface by lifting the tab portion away from the substrate surface.

Drawings

The drawings have been objected to under 37 C.F.R. 1.83(a) because the subject matter of dependent claim 22 is not in the drawings. Claim 22 has been cancelled. Thus, this rejection is moot.

35 U.S.C. § 112

Claims 1-13 have been rejected under 35 U.S.C. § 112, second paragraph, because there is insufficient antecedent basis for the phrase "the edge" in line 7 of claim 1. Claim 1 has been amended in order to overcome this rejection.

35 U.S.C. § 102

Claims 1, 6 and 14 have been rejected under 35 U.S.C. § 102(b) as having subject matter anticipated by U.S. Patent No. 6,332,631 to Kirk. Applicant respectfully traverses.

The '631 reference discloses a label for a container having both a front side and a back side that contains product information. The back side includes a first end having an adhesive portion approximate the first end such that this part of the label is substantially permanently attached to the container. The back side also has a removably-attaching surface approximate the second end that enables the label to be removably attached to the container so that the user may view the back side label information by peeling back part of the label from the container to reveal the back side label information.

The '631 patent states that the adhesive material on the first portion is "such that the first portion may be substantially permanently attached to the container in which the phrase "substantially permanently" means that removal of the first portion is difficult, but not impossible. Removal of the substantially permanently attached first portion could be accomplished by scraping the label off the container, applying chemical compositions to break down the substantially permanent attachment, but not limited to applying excessive force when peeling back the second portion of the container." (Col. 4, lines 8-17.)

The '631 reference does not teach or suggest a label having an adhesive layer adapted to releasably adhere the label to a substrate surface in which the entire label is adapted to be

easily removed from a substrate surface by lifting the tab portion away from the substrate surface. In the '631 reference, one section of the label is substantially permanently attached to the container and a non-adhesive section allows the label to be peeled back by the user in order to read text on the non-adhesive back section of the label. This non-adhesive section, including a tab portion, is not used to easily remove the entire label from the container as recited in amended independent claims 1 and 14. A claim is anticipated only if each and every element recited in the claim is found either expressly or is inherently described in the single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 Fed 2nd 628, 631 (Fed. Cir. 1987). Since dependent claim 6 depends directly from independent claim 1, Applicant respectfully asserts that this claim cannot sustain a rejection under 35 U.S.C. § 102(b) either. Therefore, Applicant respectfully submits that the '631 reference fails to teach or suggest each and every limitation of the presently amended claims and therefore cannot sustain a rejection under 35 U.S.C. § 102(b). Accordingly, Applicant respectfully submits reconsideration and withdrawal of the outstanding rejection of claims 1, 6 and 14 under 35 U.S.C. § 102(b) as being anticipated by the '631.

35 U.S.C. § 103(a)

Claims 2, 4, 5, 7-13 and 15 have been rejected under 35 U.S.C. § 103(a) as having subject matter unpatentable over the '631 reference. Applicant respectfully traverses.

Applicant respectfully submits that the previous discussion of the patentability of the current invention over the '631 reference obviates the present rejection. In making the present rejection, the Examiner cites no additional art. To establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 180 USPQ 580 (CCPA 1974). Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is by definition non-obvious. *In re Fine*, 5 USPQ 2nd 1596 (Fed. Cir. 1988). In this regard, Applicant respectfully submits that the presently rejected claims each depend, at least in part, from independent claims 1 or 14. Accordingly, Applicant respectfully submits reconsideration and withdrawal of the outstanding rejection of claims 2, 4, 5, 7-13 and 15 under 35 U.S.C. § 103(b) as being unpatentable over '631 reference.

35 U.S.C. § 103(a)

Claims 3, 16-21 and 23-33 have been rejected under 35 U.S.C. § 103(b) as having subject matter unpatentable over Kirk in view of Patent No. 5,472,756 to Sechet. Applicant respectfully traverses.

Applicant respectfully submits that the previous discussion of the patentability of the current invention over Kirk obviates the present rejection as none of the limitations discussed above are taught or suggested by Sechet. To establish a *prima facie* case of obviousness, all of the claim limitations must be taught or suggested by the prior art. *In Re Royka*, 180 USPQ 580 (CCPA 1974). Furthermore, in determining obviousness/non-obviousness, the problems to be solved by the subject invention cannot be ignored as stated by the Federal Circuit *In Re Newell*, 891 Fed. 2nd 899, 902 (Fed. Cir. 1989):

In, *In Re Wright*, 848 Fed. 2nd 1216, 6 USPQ 2nd 1959 (Fed. Cir.) we discuss the need in comparing the differences between the structure and properties taught in the prior art and those of Applicant's invention, to include consideration of the problems solved by the inventor. "The determination of whether a novel structure is or is not 'obvious' requires cognizance of the properties of that structure and the problem which it solves, viewed in light of the teachings of the prior art."

The label of the Kirk reference is directed to labels with portions that may be peeled back and then re-sealed for viewing textural and/or graphic material on the back of the label. The Sechet reference is directed to a two part label in which one part of the label remains on a package or container and the second part of the label is detachable. Independent claims 14, 17 and 29 all recite a label having an adhesive layer adapted to releasably adhere the label to a substrate surface in which the entire label is adapted to be easily removed from a substrate surface by lifting the tab portion away from the substrate surface. There is no disclosure or teaching in either of these references that produces this type of label or solves the problem of providing a label that is adapted to withstand extreme fluctuations in environmental conditions such as freezing and backing, yet is readily and easily removable from a container surface.

Additionally, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is by definition non-obvious. *In Re Fine*, 5 USPQ 2nd 1596 (Fed. Cir. 1988). In this regard, Applicant respectfully submits that the presently rejected claims 3, 16, 18-21, 23-27 and 30-33 depend, at least in part, from independent claims 14, 17 and 29.

Accordingly, Applicant respectfully submits reconsideration and withdrawal of the outstanding rejections of claims 3, 16, 18-21, 23-33 under 35 U.S.C. § 103 has being unpatentable over Kirk in view of Sechet.

35 U.S.C. § 103(a)

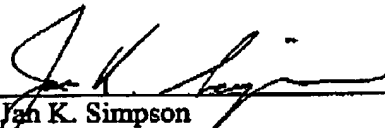
Claim 22 has been rejected under 35 U.S.C. § 103(a) as having subject matter unpatentable over Kirk in view of Sechet and further in view of Kojima. Since claim 22 has been cancelled, this rejection is moot.

CONCLUSION

Applicant respectfully submits that this application is now in condition for allowance. In the event that minor claim amendments are necessary to meet formal requirements, Applicant invites the Examiner to telephone the undersigned so that appropriate amendments can be made.

Respectfully Submitted,

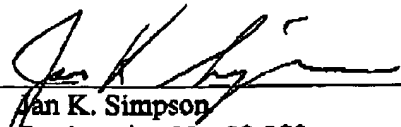
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CERTIFICATE UNDER 37 C.F.R. § 1.8(A)

I hereby certify that this correspondence is being sent by facsimile to TC 3700 of the U.S. Patent and Trademark Office at (703) 872-9302, to the attention of Examiner Mark T. Henderson on September 5, 2002.


Jan K. Simpson
Registration No. 33,283

VERSION WITH MARKING TO SHOW CHANGES MADE**In the Specification:**

The paragraphs below have been amended as follows:

[0021] Referring to FIG. 2, there is shown a back view of the adhesive label (10). As shown, the adhesive layer (18) is provided across the first or back side (20) of only the first section (12) of the label (10), and the first or back side (24) of the second section (14) does not include an adhesive layer (18). In this way, the user of the label (10) places the label (10), or more specifically the first section (12), in contact with the substrate so as to adhere the adhesive layer (18) to the substrate surface. The tab portion (14), which does not include an adhesive layer, ~~the~~ on first or back side (24), remains free from attachment to the substrate surface. To remove the label (10), the user simply grasps the tab portion (14) and pulls upwardly on the tab, thereby lifting the label (10) off of the substrate.

[0022] It is ~~a~~ preferred that the label (10) of the present invention be removable from a substrate, such as a food container, without leaving behind a label (10) remnant or residue from the adhesive layer (18). It is therefore preferable that the adhesive layer (18) be made from an easily removable adhesive, such as that commonly known in the art as a rubber based hot melt adhesive. In this regard, an adhesive suitable for use with the present invention is an adhesive sold by AVERY DENNISON under the trade name FASSON® R10. This adhesive is further preferred because it has an application temperature range of -10° C to 50° C and a wide service temperature range of -40° C to 50° C. Additionally, the preferred adhesive provides a label (10) that will remain adhered to the substrate under wash conditions, yet is easily removed from the substrate by simply lifting upwardly on the tab portion (14).

In the Claims:

The claims have been amended as follows:

1. An adhesive label, comprising:

a label having a first and second section, each section having first and second opposite sides, wherein the first side of the first section is contiguous with the first side of the second section;

an adhesive layer adapted to releasably adhere the label to a substrate surface, the adhesive layer confined to covering at least a portion of the first side of the first section;

the second section forming a tab portion extending from ~~the~~an edge of the first section; and

wherein, the first side of the second section does not include an adhesive layer, whereby the entire label is adapted to be easily removed from a substrate surface by lifting the tab portion away from the substrate surface.

14. An adhesive label, comprising:

a first portion having opposing first and second sides;

an adhesive layer on the first side of the first portion, the adhesive adapted to releasably adhere the label to a substrate;

a second portion extending from an edge of the first portion, the second portion having a nonadhesive first side juxtaposed to the adhesive layer on the first side of the first portion;

the second side of the first portion has a surface adapted to be written upon with a pencil and/or pen; and

wherein, the label is adapted to be removed from a substrate by pulling the nonadhesive second portion away from the substrate, whereby the entire label is easily lifted from the substrate.

17. An adhesive label, comprising:

a label having first and second sections, each section having contiguous first and second opposite sides;

an adhesive layer adapted to releasably adhere the label to a substrate, the adhesive layer overlaying the first side of the first section only;

the second section forming a tab portion extending horizontal to the first section, the tab portion having an edge interconnected with an edge of the first section, the interconnected edges forming a rounded edge, and the first side of the second section being nonadhesive;

wherein, the label is adapted to be removed from a substrate by lifting the nonadhesive second section away from the substrate so as to easily lift the entire label from the substrate.

29. An adhesive label, comprising:

a first portion having opposing first and second sides;

an adhesive layer on the first side of the first portion, the adhesive adapted to releasably adhere the label to a substrate;

a second portion extending from an edge of the first portion, the second portion having a nonadhesive first side juxtaposed to the adhesive layer on the first side of the first portion;

the second side of the first portion has a surface adapted to be written upon with a pencil and/or pen;

the second side of the first portion has a surface adapted to accept printing relating to food safety labeling systems; and

wherein, the label is adapted to be removed from a substrate by pulling the nonadhesive second portion away from the substrate, whereby the entire label is easily lifted from the substrate.

CURRENT AMENDED PARAGRAPHS

[0021] Referring to FIG. 2, there is shown a back view of the adhesive label (10). As shown, the adhesive layer (18) is provided across the first or back side (20) of only the first section (12) of the label (10), and the first or back side (24) of the second section (14) does not include an adhesive layer (18). In this way, the user of the label (10) places the label (10), or more specifically the first section (12), in contact with the substrate so as to adhere the adhesive layer (18) to the substrate surface. The tab portion (14), which does not include an adhesive layer on first or back side (24), remains free from attachment to the substrate surface. To remove the label (10), the user simply grasps the tab portion (14) and pulls upwardly on the tab, thereby lifting the label (10) off of the substrate.

[0022] It is preferred that the label (10) of the present invention be removable from a substrate, such as a food container, without leaving behind a label (10) remnant or residue from the adhesive layer (18). It is therefore preferable that the adhesive layer (18) be made from an easily removable adhesive, such as that commonly known in the art as a rubber based hot melt adhesive. In this regard, an adhesive suitable for use with the present invention is an adhesive sold by AVERY DENNISON under the trade name FASSON® R10. This adhesive is further preferred because it has an application temperature range of -10° C to 50° C and a wide service temperature range of -40° C to 50° C. Additionally, the preferred adhesive provides a label (10) that will remain adhered to the substrate under wash conditions, yet is easily removed from the substrate by simply lifting upwardly on the tab portion (14).